

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

MDL No. 1:13-md-2419-RWZ

THIS DOCUMENT RELATES TO:

Case No. 1:14-cv-12978-RWZ  
*Robert Dana Bender, Executor of the*  
*Estate of Ralph James Irace, Jr.,*  
*deceased v. Insight Health Corp., et al.*

**PETITION FOR FINAL APPROVAL OF DISTRIBUTIONS TO STATUTORY  
BENEFICIARIES OF VIRGINIA WRONGFUL DEATH CLAIM PURSUANT TO VA.  
CODE § 8.01-55**

Petitioner, Robert Dana Bender, duly qualified as executor of the Estate of Ralph James Irace, Jr., (“Petitioner”), by his undersigned counsel, respectfully petitions this Court pursuant to Va. Code § 8.01-55 to approve distributions to the statutory beneficiaries under the settlement of this wrongful death action which has otherwise already been approved by this Court. [ECF 2111]. A proposed Order approving the distributions is attached hereto as **Exhibit 1**.

Petitioner states as follows in support of his Petition:

**A. Petitioner and the Virginia Wrongful Death Claim statutory beneficiaries.**

1. Decedent, Ralph J. Irace, Jr., died on October 12, 2012.
2. On December 20, 2012, Petitioner Robert D. Bender duly qualified as executor of the Estate of Ralph J. Irace, Jr., in the Circuit Court for the City of Roanoke, Virginia.
3. Mary Irace, Laura Goldschmidt and Susan O’Connor, are the only statutory beneficiaries of Ralph Irace, Jr., deceased, pursuant to Virginia Code § 8.01-53 (the “Statutory Beneficiaries”). Specifically, they are the only siblings of Ralph Irace, Jr., deceased. The parents

of the decedent are dead; and the deceased had no spouse, children or grandchildren.

4. The Statutory Beneficiaries have executed and notarized a written Agreement as to Distribution of Net Settlement Proceeds (the "Agreement"), attached hereto as **Exhibit 2**. In the Agreement, the Statutory Beneficiaries agree to the payment of attorneys' fees and costs/expenses associated with the underlying cases; and they further agree to distribution of the net proceeds in equal one-third portions, the specific amounts of which are estimated in the Agreement, subject to minor final adjustments. By the Agreement, the Statutory Beneficiaries also waive notice and participation in any approval hearing by the Court.

5. There are no known liens associated with the settlement proceeds. Mr. Irace was not eligible for Medicare or Medicaid, and had a private insurance policy that he procured for himself. He was unemployed at the time of his death.

**B. This Court has already approved the Settlement Agreement, subject to final distribution order.**

6. On June 9, 2015, this Court approved the underlying Settlement Agreement, subject only to entry of a final distribution order approving the distributions to be made from the Settlement proceeds. The final order attached as Exhibit 1 accomplishes this.

7. The Petitioner and the Statutory Beneficiaries request entry of the attached final order without need for a hearing. Alternatively, the Petitioner requests that this motion be set for hearing on September 28, 2016 at 11:30 PM in the event that a hearing is required.

Wherefore, the Petitioner requests entry of the attached final distribution order, which also dismisses all pending cases with prejudice.

ROBERT DANA BENDER, EXECUTOR  
OF THE ESTATE OF RALPH JAMES  
IRACE, JR., DECEASED

By: /s/ J. Scott Sexton  
Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 15, 2016, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system, which then sent a notification of such filing (NEF) to all counsel of record. Additionally, a copy of this Petition with attachments has been provided to the Statutory Beneficiaries, along with notice of hearing, if necessary, for **September 28, 2016 at 11:30 AM.**

/s/ J. Scott Sexton